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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCUMENT CONTROLCOMMISSIONERS

MARC SPITZER, Chairman
JIM IRVIN
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON

IN THE MATTER OF:

AMERICAN NATIONAL MORTGAGE
PARTNERS, L.L.C.
15021 N. 74th Street, Ste. 100
Scottsdale, AZ 85260

SECURA INNOVATIVE INVESTMENT, INC.
15021 N. 74th Street, Ste. 100
Scottsdale, AZ 85260

SECURA MORTGAGE MANAGEMENT, L.L.C.
15021 N. 74th Street, Ste. 100
Scottsdale, AZ 85260

CASH FLOW UNIVERSITY, INC.
15021 N. 74th Street, Ste. 100
Scottsdale, AZ 85260

SECURA FUND ARIZONA, L.L.C.
15021 N. 74th Street, Ste. 100
Scottsdale, AZ 85260

LARRY WILLIAM DUNNING and SHEILA
DUNNING, husband and wife
5635 East Lincoln Drive, #23
Paradise Valley, AZ 85253-4121

PHIL VIGARINO and JANE DOE VIGARINO,
husband and wife
15021 N. 74th Street, Ste. 100
Scottsdale, AZ 85260

ROBERT K. REHM
15021 N. 74th Street, Ste. 100
Scottsdale, AZ 85260

MARK KESLER and JANE DOE KESLER, husband
and wife
10783 W. Encanto Blvd.
Avondale, AZ 85323

FRANK CASPARE and GAIL CASPARE, husband
and wife
27 Taconic
Millwood, NY 10546-1125

DOCKET NO. S-03491A-02-0000

Arizona Corporation Commission

DOCKETED

MAR 12 2003

DOCKETED BY

EIGHTH
PROCEDURAL ORDER

BY THE COMMISSION:

On March 10, 2003, Mr. David B. Stocker filed a motion to withdraw as counsel for Respondents Secura Mortgage Management, LLC, Secura Innovative Investment, Inc., Secura Fund Arizona, LLC ("Secura Entities"), and Robert K. Rehm in this matter ("Motion"). The Motion was filed pursuant to Rule 5.1(a)(2)(c) of the Arizona Rules of Civil Procedure. Counsel asserts that good cause exists to permit counsel to withdraw.

Attached to the Motion was a copy of a letter from the court-appointed receiver for the Secura Entities that terminates Mr. Stocker's representation of those entities.

The Motion asserts that counsel and Mr. Rehm have an irreconcilable conflict that will not allow counsel to continue the representation of Mr. Rehm, but that counsel cannot disclose the basis of the conflict, because to do so would result in a breach of the attorney-client privilege. Counsel avows that the conflict renders his continued involvement in this matter untenable. Counsel states that he has advised his clients of the hearing date, which was at that time March 24, 2003.

The Commission's rules allow the Commission or a presiding officer to permit the withdrawal of an attorney from any proceeding upon written application and good cause shown under such terms, conditions and notices to clients and other parties as the Commission or presiding officer may direct. A.A.C. R14-3-104(E).

ER 1.16, Rule 42, Rules of the Supreme Court of Arizona, provides as follows:

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (1) the representation will result in the violation of the Rules of Professional Conduct or other law;
 - (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or
 - (3) the lawyer is discharged.
- (b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interest of the client, or if:
 - (1) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
 - (2) the client has used the lawyer's services to perpetrate a crime or fraud;

- (3) a client insists upon pursuing an objective that the lawyer considers repugnant or imprudent;
- (4) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
- (5) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client;
- (6) other good cause for withdrawal exists.

(c) When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law.

No objection to the Motion has been filed.

Based on the letter from the receiver terminating Mr. Stockton's representation of the Secura Entities, Mr. Stockton has been discharged. The request to withdraw from representing the Secura Entities should therefore be granted pursuant to A.A.C. R14-3-104(E).

Although the Motion does not reveal the basis of counsel's avowed conflict with Mr. Rehm, we find that based on the Motion, good cause exists to permit the request to withdraw from representing Mr. Rehm pursuant to A.A.C. R14-3-104(E).

Based on the foregoing, we will grant the Motion. Pursuant to A.A.C. R14-3-104(E), we will require that counsel take steps to the extent reasonably practicable to protect the interests of the Secura Entities and Robert K. Rehm.


IT IS THEREFORE ORDERED that the motion to withdraw as counsel for Respondents Secura Mortgage Management, LLC, Secura Innovative Investment, Inc., Secura Fund Arizona, LLC, and Mr. Robert K. Rehm filed by Mr. David B. Stocker is hereby granted.

IT IS FURTHER ORDERED that Mr. David B. Stocker shall immediately surrender any papers and property to which Secura Mortgage Management, LLC, Secura Innovative Investment, Inc., Secura Fund Arizona, LLC, and Mr. Robert K. Rehm are legally entitled, as required by ER 1.16.

1 IT IS FURTHER ORDERED that if Mr. David B. Stocker is in possession of any advance
2 payment of fee that has not been earned, such advance payment shall be immediately refunded, as
3 required by ER 1.16.

4 IT IS FURTHER ORDERED that Respondents Secura Mortgage Management, LLC, Secura
5 Innovative Investment, Inc., Secura Fund Arizona, LLC, and Mr. Robert K. Rehm shall file, by
6 March 25, 2003, a notice of Substitution of Counsel.

7 DATED this 12th day of March, 2003.

8 
9 TEENA WOLFE
10 ADMINISTRATIVE LAW JUDGE

11 Copies of the foregoing mailed/delivered
12 this 12th day of March, 2003 to:

13 David B. Stocker
14 Suite 234 Valley Commerce Center
15 4745 North Seventh Street
16 Phoenix, AZ 85014

17 Secura Management, L.L.C.
18 15021 North 74th Street
19 Scottsdale, AZ 85260
20 Via Certified Mail, Return Receipt Requested

21 Secura Fund of Arizona, L.L.C.
22 15021 North 74th Street
23 Scottsdale, AZ 85260
24 Via Certified Mail, Return Receipt Requested

25 Secura Innovative Investment, L.L.C.
26 15021 North 74th Street
27 Scottsdale, AZ 85260
28 Via Certified Mail, Return Receipt Requested

Robert K. Rehm
6870 East Horned Owl Trail
Scottsdale, AZ 85262
Via Certified Mail, Return Receipt Requested

Scott Ashton-Blair
P.O. Box 8400
Scottsdale, AZ 85252

Cash Flow University, Inc.
15021 North 74th Street, Ste. 100
Scottsdale, AZ 85260


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9 Mark Kesler

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16 American Mortgage Partners, L.L.C.

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20 Phoenix, Arizona 85007

21 W. Mark Sendrow, Director
22 Securities Division
23 ARIZONA CORPORATION COMMISSION
24 1300 West Washington Street
25 Phoenix, Arizona 85007

26 By: 
27 Molly Johnson
28 Secretary to Teena Wolfe